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UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY
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PO BOX 1450 ALEXANDRIA VA 22313-450
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KRISTINA BIEKER-BRADY
CLARK & ELBING LLP
101 FEDERAL STREET
BOSTON, MA 02110

In re Application of :
Thomas L. Benjamin :
Serial No.: 09/812,471 : PETITION DECISION
Filed: March 19, 2001 :
Attorney Docket No.: 21559 :

This is in response to applicant's petition under 37 CFR 1.181, filed February 3, 2003, to withdraw the abandonment of the above identified application based on timely filing of a reply.

A review of the file history shows that the examiner mailed an Office action to applicant on March 26, 2002, setting a one month shortened statutory period for reply. When no reply was correlated with the file a Notice of Abandonment was mailed to applicant on December 2, 2002. Applicant states that a reply was mailed to the Office on April 25 2002, as evidenced by a properly executed certificate of mailing, a copy of which is enclosed. In addition, Applicant submits declarations from Guy Beardsley, a practice systems specialist at the law firm attesting the reply to the office action was mailed on April 25, 2002 and to the mail procedures in effect on April 25, 2002. The originally submitted papers have not been matched with the file, however, the copy of the reply submitted with the petition will be used. It is concluded in view of the evidence presented that the reply was timely filed. Hence the Notice of Abandonment was mailed in error and is hereby withdrawn and the application restored to pending status with the mailing of this decision.

Applicants' petition is **GRANTED**.

The application will be forwarded to the examiner for further consideration.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, PO Box 1450, Alexandria VA 22313-1450, or by telephone at (703)308-0254 or by facsimile transmission at (703) 308-7230.


John J. Doll

Director, Technology Center 1600